

Town of Orford

Docket No.: 21473-05RA

ORDER

The board held a hearing on February 10, 2006 to receive testimony from the “Town” of Orford, representatives of Avitar Associates of New England, Inc. (“Avitar”) and department of revenue administration (“DRA”) officials relative to: 1) Avitar’s revised manual and DRA’s subsequent report on the consistency of the applications of view factors; and 2) the concerns the Orford Selectboard have of Avitar’s procedures and errors observed subsequent to implementing the 2005 assessments. Also considered at the hearing was a February 7, 2006 Memorandum (“Memorandum”, Board Exhibit I) filed by the board’s review appraisers summarizing their observations of their field inspection of consistency of the application of view factors and DRA’s report. Copies of the Memorandum were submitted to the Town, Avitar and DRA prior to the February 10, 2006 hearing.

At the hearing, Mr. David Bischoff, chairman of the Orford Selectboard, presented a number of exhibits supporting the town officials continued concerns with the inconsistency of the application of the view factors by Avitar and concerns with various input and listing errors such as current use, non-taxable property and several individual properties. Mr. Bischoff indicated that

currently, due to the concerns of and errors with Avitar's performance, the Town had "little confidence in the accuracy of this town-wide revaluation." (See Municipality Exhibit B – February 2, 2006 letter from Anne Green, Orford Selectman).

Mr. Gary Roberge, president of Avitar, testified the revised manual (Municipality Exhibit A) contained the market extraction analysis the board's November 3, 2005 Order ("Order") had requested and the analysis should be helpful to Avitar, town officials and taxpayers in understanding the basis for the 2005 assessment. Mr. Roberge acknowledged, based on both the DRA's report and Memorandum, there are still certain inconsistencies in the application of the view factors and that he would be willing to perform a review this summer to improve the consistency of the application of such factors prior to the 2006 tax bills. He also stated a number of the errors cited by the Selectboard have been corrected and Avitar remained willing to work with the Selectboard to correct any remaining errors.

Mr. John McSorley, assistant director of property appraisal at DRA, testified as to the methodology employed in the DRA report and, although it noted some differences of opinion for factors applied to several properties, the report generally concluded the view factors were consistently applied.

Ms. Joan Gootee, the board's senior tax review appraiser, testified the board's review appraisers' review (Memorandum) indicated Avitar's analysis provided support for the application of the higher view factors, but the lower view factors were inconsistently applied and access and development cost adjustment factors for properties were inconsistent.

Mr. Tom Thomson, an Orford taxpayer, testified there remained inconsistent view factor applications that still need to be corrected. Mr. Carl Cassel, Town Treasurer and Orford taxpayer,

testified the board should retain jurisdiction of the 2005 reassessment to ensure the errors and inconsistencies remaining are corrected and Avitar and the Orford Selectboard work to that end.

Rulings

Issues Regarding Avitar's Revised Assessment Manual

Avitar's revised assessment manual contains several extraction analyses of sales to support a number of its major assessment models including primary site value, excess frontage, excess acreage, view factors, undeveloped lot factors and localized building square foot costs. The analyses contained some explanations and discussions to facilitate understanding of how the analyses were done and how they relate to the establishment of the assessment models. The board finds these documented analyses create the cornerstone for the establishment of assessment models and provides for the ability for Town officials and taxpayers to understand how the assessed values were derived from and related to local data.¹ Consequently, the board concludes the Town has received from Avitar an assessment manual that complies with the board's Order.

Obviously such analyses must be specific to each municipality and will depend on market conditions, the various types of properties within each municipality (residential, commercial, condominium, industrial, manufactured homes, etc.) and which of the three approaches to value (cost, sales or income) are best suited to value those properties. For Orford, the board finds Avitar's analyses in the revised assessment manual are appropriate for the rural residential and vacant land market in Orford and attempt to extract and measure from sales the major value influencing factors.

¹ General industry standards such as those contained in the Uniform Standards of Professional Appraisal Practice, Standard 6, (see page 11 of the Order), requires that adequate documentation and information be available so that the users (local assessors, taxpayers, board of tax and land appeals, etc.) can understand how the assessment models were created and calibrated.

As evident at the hearing, such analyses allow the selectmen to provide appropriate local insight as to whether certain sales have been properly analyzed. Without such analysis and documentation providing more transparency, it is difficult for the local assessing officials and taxpayers to have confidence in the results; such documentation is especially helpful when assessments are challenged. Reiterative ratio studies, which have been used in Orford and in many municipalities to establish assessment models, do not provide that ability for selectmen or taxpayers to understand the analysis of individual sales and to be able to critique it. The board finds well-documented extraction analyses, if they were provided prior to municipal acceptance of values, would provide for this ability to understand and critique the assessment models and, if necessary, adjust them if appropriate insights are received on the sales that the contract assessors may have been unaware of. As the board noted in its Order, while such analyses may not allay all the concerns presented by the selectmen, it goes a long way toward bridging the prior information gap that existed between local sales data and the assessment-record cards generated for taxpayers.

There is no single template for what is appropriate documentation for a municipality to have at the time of a reassessment. However, the documentation provided by Avitar in this case is reasonable based on the available sales and the type of properties to be assessed in Orford. In municipalities that do not have adequate sales from which to extract and correlate the major assessment models, a regional approach may be appropriate based on the sales in nearby towns with similar markets and demographics. Also, in more urbanized municipalities with commercial/industrial property, different types of analyses may be appropriate, such as a survey of income and expense data and its correlation so as to value properties by the income approach or in municipalities with a high number of residential property sales, a multiple regression analysis that measures the incremental value of various residential property components such as additional

bathrooms, bedrooms, garages, etc. Such analyses are intended to derive from the market the most significant factors affecting market value, but cannot realistically extract all factors that influence the value of each property. As stated earlier, such analyses provide the cornerstone for the assessing models. However, they must be built upon with good appraisal judgment and consistent application throughout the community for good assessment equity to occur.

Remaining Issues

The balance of the issues discussed fall in two general categories: 1) remaining errors relative to the assessment of current use and non-taxable properties or other properties; and 2) consistent application of the view factors.

As an overview, both Mr. Bischoff and Mr. Roberge acknowledged at the hearing that, at this point in time, a productive working relationship with good communications between the Town and Avitar does not exist. However, it was also clear from the testimony that both the Town and Avitar are aware of contractual and professional motivations to resolve their differences and to address these outstanding issues to the benefit of the taxpayers of Orford, who will ultimately gain from the resulting improved assessment equity. It is very evident from the selectmen and other town officials' hard work that they recognize their obligations to the taxpayers and are to be commended for their commitment. This hard work is indicative the Selectboard is serious about fulfilling its obligation of maintaining the assessment equity in the Town and complying with the assessment requirements incumbent upon them as assessing officials. See RSA 41:8 and 75:1. Further, Avitar, by continuing to be involved in this process, as evidenced by its revised assessment manual and its offer to perform a town-wide review of view factors this summer, indicates it understands its obligations and the inherent goodwill that will

result from attempting to resolve its differences with the town officials and rectify any outstanding errors or inconsistencies.

Ultimately, it is the Orford Selectboard's decision whether to address the remaining issues as summarized above either with Avitar or in some other manner. However, it is this board's responsibility, pursuant to RSA 71-B:16 & 17, to ensure it occurs. RSA 41:8 requires selectmen to "manage the prudential affairs of the town and perform the duties by law prescribed". One of those duties prescribed is to properly assess property in accordance with RSA 75:1, annually correct any errors that may exist (RSA 75:8) and take an oath that they have properly assessed taxable real estate (RSA 75:7).

The evidence is consistent in the DRA's report, the tax review appraisers' Memorandum and Mr. Thomson's photographs (Taxpayer Exhibit 1) that there remains room for improvement in the consistency of the application of the view factors. The Orford Selectboard shall proceed either with Avitar's offer of review or in some other manner to improve the consistency of the view factors prior to the issuance of the 2006 tax bills. Further, to the extent there remain any unresolved entry or assessment issues relative to current use assessments (land not in current use and current use values, etc.), the Town shall, prior to the 2006 tax bills, also resolve those in compliance with current use rules, statutes and case law.

The board will retain jurisdiction for a review as to the Town's progress in resolving these outstanding issues. The Town need not report to the board, nor does the board intend to accept ongoing, unsolicited correspondence from the Town, Avitar or taxpayers on these issues. Rather, the board, through its review appraisers, will contact the Town in mid-summer as to its progress in resolving these issues. Further, the board's review appraisers, if adequate sales occur, will perform a subsequent assessment-to-sale ratio study to test the effectiveness of the assessment

equity of the 2005 reassessment after any revisions to assessments have occurred based on the Town's ongoing review. This time period will also give the Town opportunity to further develop its plans for fulfilling its assessing responsibilities under RSA 75:1, 8 and 8(a). Mr. Bischoff indicated at the hearing the Town was exploring the possibility of working with other municipalities to obtain assessing services through a shared assessor. How the Town ultimately decides to obtain assistance in its assessing functions is critical to understanding whether the Town has adequate plans to address any future assessment inequities (RSA 71-B:16-a, IV and V) and for the board to determine whether to remove its assessment order.

In conclusion, the board finds while some improvements have been made in the quality of the Orford reassessment, a number of issues still remain outstanding that the Town needs to address. Consequently, the board will retain jurisdiction to determine if the Town has made adequate progress in resolving those issues and has satisfactory plans to perform its assessing responsibilities on an ongoing basis.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert R. Shamash, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Chairman, Selectboard, Town of Orford, Post Office Box F, Orford, New Hampshire 03777; Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, New Hampshire 03258; Guy Petell, State of New Hampshire, Department of Revenue Administration, Bureau of Assessments, Post Office Box 457, Concord, New Hampshire 03301-0457; Tom Fahey, New Hampshire Union Leader, State House – Room 116, North Main Street, Concord, New Hampshire 03301; Gary Rayno, New Hampshire Union Leader, 100 William Loeb Drive, Manchester, New Hampshire 03108-9555; John McSorley, State of New Hampshire, Department of Revenue Administration, Post Office Box 457, Concord, New Hampshire 03301-0457; and Nancy LeVinus, 107 N. Main Street - Room 109, Concord, New Hampshire 03301, interested parties.

Date: 3/8/06

Anne M. Stelmach, Clerk